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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Sixteenth session

SUMMARY RECORD OF THE 7th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 1 May 1997, at 10 a.m.

Chairperson: Mr. ALSTON

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The meeting was called to order at 10.10 a.m.

Solemn declaration by new members

1. In accordance with rule 13 of the rules of procedure of the Committee, Mr. Antanovich and Mr. Riedel solemnly undertook to discharge their duties as members of the Committee on Economic, Social and Cultural Rights impartially and conscientiously.

SUBSTANTIVE ISSUES ARISING IN THE IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS (agenda item 5) (continued)

Sending of a mission to the Dominican Republic

2. The CHAIRPERSON asked the Committee whether it wished to accept the official invitation of the Dominican Government and send a mission to the Dominican Republic. If so, it would be possible to follow the example of the mission to Panama, which had been made up of two persons and had been given restricted terms of reference. He asked the members of the Committee whether the terms of reference of the experts should deal only with the cases of large-scale evictions referred to in Economic and Social Council decisions 1992/261 and 1993/295 or whether they should be broadened to include certain questions of concern addressed in the Committee's preliminary observations. In his view, although the terms of reference of the mission should not be too general, it would not be realistic to confine them to the large-scale evictions that had taken place six or seven years previously at the site of the monument built to commemorate the discovery of America. Should the terms of reference of the mission be defined in the reply to be addressed to the Dominican Government and should the Committee limit itself to preliminary observations and await the results of the mission before formulating concluding observations?

3. Replying to Mr. Grissa, he said that no specific information was available on the current situation of persons who had been the victims of large-scale evictions and he was not aware of any new cases. Even if the members of the mission focused only on forced evictions and housing problems, it would be difficult for them not to touch on related issues.

4. Mr. SA'DI said that, in order to ensure the mission's cost-effectiveness and produce a clearer and more coherent picture of the situation of economic, social and cultural rights, it would be preferable to broaden the terms of reference of the experts to include questions relating to evictions. He also recommended that the mission's programme of action should be carefully defined.

5. Mr. TEXIER said that the Committee should accept the invitation of the Dominican Government in order to establish closer cooperation with it. Drawing upon the conclusions of the successful mission to Panama, he agreed with the Chairperson that the terms of reference should not be too broad because, in the context of a short mission, it would not be possible to consider the implementation of the Covenant in all areas. In his view, the terms of reference should not be restricted to the simple question of evictions either, but should take account of the Committee's observations and

recommendations, above all with regard to the question of discrimination against Haitians and their status in the Dominican Republic. Lastly, he believed that the Committee should inform the Dominican Government of the exact terms of reference of the experts.

6. Mr. WIMER said that he agreed with the Chairperson and Mr. Texier on the terms of reference of the mission. The mission to Panama had been successful not only because its objectives had been clearly defined, but also because it had made it possible to resume the political dialogue between the Government and public opinion, including non-governmental human rights organizations.

7. Mr. MARCHAN ROMERO said that, in his view, the Committee should take note of the fact that the Government of the Dominican Republic agreed to invite a mission to consider the question of forced evictions on site. The mission's terms of reference, which must focus on that subject alone, should also be specified. Once on the spot, the members of the mission might also hold a constructive dialogue on other subjects, but only as a secondary consideration. The Committee's conclusions should remain preliminary until it had received other material provided by the mission.

8. Mr. KOUZNETSOV said he agreed that the terms of reference of the group to be sent to the Dominican Republic should focus solely on forced evictions in the past and at present. It would be useful for the two experts travelling to the scene to be well-informed on the question and for information to be obtained from HABITAT on current developments in that area.

9. Mr. SA'DI said that, for practical and financial reasons, he was in favour of sending one person, and not two, to the Dominican Republic and opposed to confining the terms of reference of the mission to the sole question of forced evictions.

10. Mr. RATTRAY said that the mission should inspire confidence so that its members could have access not only to official, but also to other bodies which might provide reliable and precise information. Its terms of reference should include the right to housing in the past and at present and should not relate to more than two or, at most, three subjects. Moreover, the Dominican Republic should be informed in advance of the content of the terms of reference.

11. The CHAIRPERSON said that the letter of 23 April 1997 received from the Dominican Republic contained an open invitation to consider all questions relating to the second periodic report.

12. Mr. WIMER said that it was important to clarify the terms of reference of the mission, which was not meant to be an inspection mission. The Committee had been invited by the Government of the Dominican Republic to send a special mission to offer technical advice on a specific point. On the basis of past experience, he said that, for practical reasons, two persons should be sent rather than one.

13. The CHAIRPERSON said that the file on the mission would be made available to the members of the Committee.

14. Mrs. BONOAN-DANDAN said she agreed that it would be impossible for one person alone to do an effective job, even if the mission's terms of reference were limited to forced evictions. And if the Committee wished to broaden the terms of reference, more than two persons would have to be sent.

15. The CHAIRMAN said that the decision of the Economic and Social Council allowed for a maximum of two persons accompanied by a staff member of the Centre for Human Rights.

16. Mr. ADEKUOYE said that the mission's main concern should be housing, with the emphasis on forced evictions. Once in the Dominican Republic, the mission would also be able to consider other aspects of the question, which was a very big one.

17. Mr. SA'DI said that, if the Committee decided to restrict the mission's terms of reference to evictions alone, it would be enough to send one person, as many United Nations bodies did. If the terms of reference were broader, two persons would have to be sent.

18. Mr. AHMED said that the mission's terms of reference could not be limited to evictions, especially as the invitation of the Dominican Government did not mention any particular subject. The mission would be able to consider any matter which the Committee had raised in its preliminary observations. The mission should take up in particular the question of the expulsion to Haiti of the black population of Haitian origin and perhaps the situation of Haitian women employed on sugar cane plantations who suffered discrimination, including in matters of housing. When the head of family had just disappeared, for whatever reason, such women could not continue to occupy their dwellings, since they could not themselves obtain the required "cedula" (identity card).

19. Mr. PILLAY said that, since the invitation was an open one, the mission should concern itself with all the issues raised in the Committee's preliminary observations. If the mission's only purpose was to investigate evictions, it would have to examine not only the topic itself, but also all the relevant legal and judicial procedures, including the question of expulsions of blacks of Haitian origin, to which reference had been made.

20. Mr. ANTANOVICH said there seemed to be a consensus in the Committee that the Dominican Republic's invitation should be accepted. A one-person mission seemed impossible. At least two experts should be sent to the Dominican Republic to study, of course, the question of past evictions, but they should investigate, in addition and in particular, the persistence of that practice in the present in order to prevent any further cases. The mission's mandate should be neither too restrictive nor too open. The Committee should adopt its final observations when it was in possession of the new information provided by the mission.

21. Mr. WIMER said that the members of the Committee needed to know the exact terms of the letter of invitation before taking a decision on the question.

22. The CHAIRPERSON said that no final decision would be taken until the members of the Committee had had an opportunity to examine the file.

23. Mr. RIEDEL said that the purpose of the mission should be to investigate evictions and the housing problem, but that, once in the Dominican Republic and depending on the circumstances, other matters raised in the preliminary observations should also be examined.

24. The CHAIRPERSON, in summing up the discussion, said that the Committee accepted the Dominican Republic's invitation to send a mission, that the mission to Panama constituted an important precedent from which lessons must be drawn, that the mission should consist of two persons, as the decision of the Economic and Social Council allowed, and that its terms of reference should not be limited to the question of evictions. He personally thought that it was in the Committee's interest to state the mission's terms of reference in very specific terms. In view of the preliminary observations made by the Committee, the right to housing should be the mission's main concern, it being understood that, once on the spot, the members of the mission would be able, if necessary, to raise other questions. From the practical standpoint, it was also necessary to prepare the mission with the greatest care in order to ensure its success. The observations must remain preliminary until the mission's findings were to hand.

Optional protocol

25. The CHAIRPERSON recalled that comments and sometimes criticism had been offered about the draft optional protocol at the session of the Commission on Human Rights, mostly by non-governmental organizations, but also by a few countries. Belarus had supported the drafting and adoption of such a text, which would strengthen economic, social and cultural rights and establish the necessary balance between those rights and other groups of rights. Romania had strongly supported the draft optional protocol as a component of the human rights monitoring system. The Russian Federation had said that it was convinced that the international human rights instruments would be made more effective by the adoption of the protocol, which would introduce a procedure for the consideration of communications. Few countries had stated their views on the question, for Governments would be invited to submit their comments in writing for the Commission's next session.

26. Mr. TEXIER said that it was a pity that France did not show stronger support for the draft protocol. In the circumstances, it must be asked whether the members of the Committee could do something to alter the attitude of the Western countries towards the draft text, whether further support could be found from other groups of countries and whether the Committee could play a role in speeding up the drafting and adoption of the protocol. Had its content been criticized? Had that question been raised during the Commission's session? What was the timetable for the drafting and adoption of the instrument?

27. The CHAIRPERSON said that the criticisms made had come mainly from non-governmental organizations. The main question was whether the Commission would receive a sufficient number of positive replies from Governments to justify the appointment of a working group to examine the draft protocol and

propose a final draft. If not, the drafting and adoption of such an instrument could become bogged down. What could be done? Governments must be persuaded that the most important question they faced was not whether they could ratify the protocol, but whether the system as a whole would benefit from having a mechanism for the consideration of complaints in the case of economic rights. The adoption of a protocol to the Covenant on Economic, Social and Cultural Rights would help in introducing a global system for the protection of human rights.

28. Mr. TEXIER said that it would be interesting if each member of the Committee could, as he himself had done, seek the opinion of the ministries concerned as to the feasibility of a draft optional protocol to the International Covenant on Economic, Social and Cultural Rights. His own experience had shown that the Ministry of Justice was the least forthcoming - although it did recognize that some of the rights set forth in the Covenant and, in particular, the right to housing and the right to work were already fully subject to the law, but that, in general, the French Government was not opposed to such a draft being prepared. It would be advisable for such an initiative to be undertaken in all countries, with the assistance of NGOs, to explain to Governments what an optional protocol meant and entailed.

Publicity and image of the Committee

29. The CHAIRPERSON said that one of the only ways available to the Committee for making its work known was the information sheet which was published by the Centre for Human Rights and which was useful, but somewhat austere, whereas information on the operation and activities of all the other committees was also disseminated by other bodies, such as NGOs. For instance, the Committee on the Elimination of Racial Discrimination had the support of the Anti-Racism Information Service. He urged members to give some thought to the steps to be taken with a view to adopting such a system in the Committee on Economic, Social and Cultural Rights. Furthermore, the fact that the press devoted little space to the work of bodies such as the Committee was apparently due to the fact that they were of little interest. If the Committee wished to attract the attention of Governments it might therefore be useful to consider a reformulation of the position in an endeavour to obtain press coverage. It might be advisable to give some thought, before the end of the session, to the way in which the next few days of the general discussion could be used in an attempt to hit the headlines.

30. Mr. SA'DI said that, in his view, if the Committee really wanted to improve its image, it should itself take the initiative of providing the local and international press with information on matters it deemed to be of major interest. He would also suggest that the Committee should meet alternately in Geneva and New York or another city, as that would enable it to throw more light on its work and would enhance the dissemination of information on its activities.

31. Mr. TEXIER said that only events were covered by the press and, in his view, the Committee's meetings were not an event. He had noted, however, that the appearance of a State party before the Committee, when its report was considered, had sometimes made the headlines in the press of that State because the Government or civil society of the country in question had made an

event of it. The Committee should try to interest specialists, such as jurists and NGOs, in its work by sending them publications that were more attractive and less difficult to read than its documents.

32. Mrs. BONOAN-DANDAN said she was struck by the fact that the attitude of the press to the Committee's work reflected society's attitude to economic, social and cultural rights. When those rights were mentioned, there was talk of principles and of objectives that countries were trying to achieve, but rarely of rights as such. Although the nature of the Committee's work was sometimes considered to be a little austere, it nonetheless had the reputation of being innovative. It would be desirable to strengthen the Committee's collaboration with NGOs to make economiic, social and cultural rights and the Committee's activities better known.

33. Mr. MARCHAN ROMERO, agreeing, said that, in his view, it was not for the Committee to pay court to the press; rather, it must improve its machinery for making the Covenant better known. Ironically, States parties themselves knew nothing about the Committee, only bothering about it when they had a report to draw up. The Committee should exploit the positive relations it had established with NGOs to make the Covenant better known both by civil society and by Governments. For example, he had himself been invited, through an NGO, to address the Ecuadorian Congress, an event which had received wide press coverage. He proposed that, in view of financial difficulties, an expert should be recruited to suggest areas of action likely to improve the lacklustre image that was prejudicial to the Committee.

34. Mrs. JIMENEZ BUTRAGUEÑO said that the Committee dealt with rights about which the public did not really care. The press, though important, was not everything. The Committee should find a way of getting its message across, for instance, by reporting on the missions it had carried out to Hong Kong and Panama and by highlighting the successes it had achieved, such as the story about the Chinese child who had found his parents again. That was the kind of news that would be of interest to the press.

35. Mr. CEAUSU said that, although he found the remarks by the other members of the Committee, particularly those made by Mr. Marchán Romero, very interesting, he thought that the emphasis should be on the concluding observations; care must be taken to ensure that they ended up on the desk of the competent minister. He proposed that, at least where the concluding observations were concerned, the Committee should change its procedure. Given that it was for the Economic and Social Council to monitor the implementation of the Covenant, its President might be entrusted with the task of addressing letters to the Ministries of Foreign Affairs of each of the various countries, setting out the Committee's relevant concluding observations. Another possibility would be to make the concluding observations better known within the United Nations system, either by publishing a separate document annually or by including them in the annual report of the Economic and Social Council. On the question of holding the Committee's sessions alternately in Geneva and New York, he thought that there were already too many meetings at the latter venue, and said he would prefer the sessions to be held at the headquarters of the United Nations regional commissions (Addis Ababa, Santiago, and Bangkok,

for example), where only the reports on the countries of the respective region would be considered. However, he was aware of the financial implications; hence his pessimism with regard to the chances of his proposal being accepted.

36. Mr. ANTANOVICH, pointing out that inadequate media coverage was not invariably a bad thing, said that it was important to find a way of extracting from the mass of available data such information as was likely to present the Committee's activities in a favourable light. He encouraged the members of the Committee to give interviews and write articles on the Committee's work and proposed that the US$ 10,000 allocated by the Economic and Social Council should be used specifically to ensure that information reached those primarily concerned, namely, Governments and the public. The idea of holding the Committee's sessions alternately in Geneva and New York was a good one, for in that way the Committee would be able to make its activities known in two major centres of the United Nations system. However, financial implications and logistical difficulties stood in the way of holding the Committee's sessions at the headquarters of the United Nations regional commissions. He was in favour of the preparation of special reports on ways of making the Committee's work and recommendations as widely known as possible.

37. Mr. WIMER said that he welcomed the pertinence of those remarks, but considered that such an analysis overlooked one essential aspect of the matter, namely, the fact that the Committee's concluding observations lacked bite. The Committee wallowed in ambiguity, refusing to state clearly and categorically whether States had or had not complied with their obligations. Such lacklustre observations could be of no interest to the press and the Committee's image suffered accordingly.

38. Mr. SA'DI said that information campaigns were important because they enabled economic, social and cultural rights to be promoted. In that connection, he would prefer to see awareness-raising efforts directed at the public rather than at Governments, in view of the pressure that the former could exert on the latter. Judging from his own experience of journalism, he believed that it was up to the Committee to seek out journalists, not vice versa. The Committee could write articles on its activities and make them available to the press. He himself had used that approach in Jordan, with positive results. Particularly in the developing countries, a growing awareness of economic, social and cultural rights was discernible, more so than was the case with civil and political rights, for example.

39. Mrs. JIMENEZ BUTRAGUEÑO said that there were two issues: how to make the Committee's voice heard by Governments and how to reach the general public. Those two goals were different, but not incompatible.

40. Mr. ADEKUOYE pointed out that non-governmental organizations (NGOs) had often acted as accurate sources of information, thereby enabling the Committee to make up for the inadequacy of data and to carry out more thorough studies. He proposed that Governments should be requested to involve NGOs in the drafting of their reports, even if there was every reason to believe that few Governments would actually be prepared to do so. The Committee suffered not from a poor image, but rather from the fact that its activities were barely known to Governments and, in particular, to the man in the street. He

proposed setting up a small working group, whose members would have experience in communication matters, to advise the Committee on steps to be taken to rectify that situation.

41. Mrs. BONOAN-DANDAN said that the Committee already had a tool that would enable it immediately to undertake activities in the area of information and publicity, namely paragraph 4 of the "consolidated guidelines for the initial part of the reports of States parties" (HRI/1991/1), in which States were requested, inter alia, to indicate whether any special efforts had been made to promote awareness among the public and the relevant authorities of the rights contained in the Covenant and whether the contents of the reports were the subject of public debate. The Committee must now request concrete evidence, rather than continuing to content itself with States' declarations on the subject.

42. The CHAIRPERSON, summing up the discussion, proposed that the Committee should draft one page of general observations on the need to make the Covenant and the Committee's work known at the national level. The idea of holding its sessions alternately in New York and in Geneva or elsewhere was worth exploring, although the financial implications might constitute an obstacle to its implementation. NGOs with substantial resources might be asked to prepare a guide to the Committee's work. With regard to publicity, the Committee perhaps underestimated the potential of questions such as forced expulsions. He therefore proposed that the secretariat should gather together data from other sources and incorporate them in a press release to be annexed to the Committee's general observations. He found the idea put forward by Mr. Sa'di a good one and suggested that the Information Service of the United Nations Office at Geneva should be asked to draw up a document exploring the possibilities open to the Committee, including the use of new information technologies. He agreed with Mr. Adekuoye on the need to set up a small working group, which would, as Mr. Wimer had stressed, have to draw up concise and interesting articles that could readily be disseminated through the press.

The meeting rose at 1.05 p.m.